UNITED STATES DISTRICT COURT Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA

*1st AMENDED JUDGMENT IN A CRIMINAL CA

Judge, U.S. District Court

Case Number: 4:17CR06046-SMJ-1 JIN CHUL CHA, a/k/a Jacob Cha USM Number: 20762-085 Carl Joseph Oreskovich Defendant's Attorney *Date of Original Judgment: 4/23/18 *Modification of Restitution Order (18 U.S.C. § 3664) THE DEFENDANT: pleaded guilty to count(s) 1 and 2 of the Information pleaded nolo contendere to count(s) which was accepted by the court. \square was found guilty on count(s) after a plea of not guilty. The defendant is adjudicated guilty of these offenses: **Title & Section Nature of Offense** Offense Ended Count 18 U.S.C. § 1349 Conspiracy to Commit Wire Fraud 03/30/15 18 U.S.C. § 286 Conspiracy to Defraud the Government by Obtaining False, Fictitious, and 07/31/15 2 Fraudulent Claims for Excise Tax Refunds of this judgment. The sentence is imposed pursuant to The defendant is sentenced as provided in pages 2 through the Sentencing Reform Act of 1984. ☐ The defendant has been found not guilty on count(s) ☐ is are dismissed on the motion of the United States. \square Count(s) It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances. 4/20/2018 Date of Imposition of Judgment Signature of Judge

6/28/2018

Name and Title of Judge

The Honorable Salvador Mendoza, Jr.

AO 245B

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DEPUTY UNITED STATES MARSHAL

DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

CASE NUMBER: 4:17CR06046-SMJ-1

IMPRISONMENT						
The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 51 months						
This total term of imprisonment consists of 51 months with respect to each of Counts 1 and 2 of the Information which shall be served concurrently with each other. Defendant shall receive credit for time served in federal custody prior to sentencing in this matter.						
The court makes the following recommendations to the Bureau of Prisons:						
Defendant shall participate in the BOP Inmate Financial Responsibility Program.						
The defendant is remanded to the custody of the United States Marshal.						
☐ The defendant shall surrender to the United States Marshal for this district:						
□ at □ a.m. □ p.m. on						
as notified by the United States Marshal.						
☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:						
before 2 p.m. on						
as notified by the United States Marshal.						
as notified by the Probation or Pretrial Services Office.						
RETURN						
I have executed this judgment as follows:						
Defendant delivered on						
at, with a certified copy of this judgment.						
ANAMON OF LINE AND DOWN						
UNITED STATES MARSHAL						
Ву						

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DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

You must not commit another federal, state or local crime.

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SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

3 years

This total term of supervised release consist of 3 years with respect to each of Counts 1 and 2 of the Information which shall be served concurrently with each other.

MANDATORY CONDITIONS

2.	You must not unlawfully possess a control	olled substance, including	ng marijuana, which re	mains illegal under federal law.
	Tour must not unit writing possess a contro	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	-8	maning mingar annual reaction is min

3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (check if applicable)

4. **V** You must cooperate in the collection of DNA as directed by the probation officer. (check if applicable)

5. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)

6. You must participate in an approved program for domestic violence. (check if applicable)

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

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DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

CASE NUMBER: 4:17CR06046-SMJ-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- 1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4. You must be truthful when responding to the questions asked by your probation officer.
- 5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12. If this judgment imposes restitution, a fine, or special assessment, it is a condition of supervised release that you pay in accordance with the Schedule of Payments sheet of this judgment. You shall notify the probation officer of any material change in your economic circumstances that might affect your ability to pay any unpaid amount of restitution, fine, or special assessments.
- 13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court a	nd has provided me with a written copy of this	
judgment containing these conditions. For further information regarding these condi-	tions, see Overview of Probation and Supervised	
Release Conditions, available at: www.uscourts.gov.	· • • • • • • • • • • • • • • • • • • •	
· · · · · · · · · · · · · · · · · · ·		
Defendant's Signature	Date	

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DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

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SPECIAL CONDITIONS OF SUPERVISION

- 1. If you pose a risk to another person or an organization, the probation officer may seek permission from the court to require you to notify that person or organization about the risk. If the court approves, you must provide the notification. The probation officer may contact the person or organization to confirm that you have provided the proper notification.
- 2. You must provide the supervising officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office. You must disclose all assets and liabilities to the supervising officer. You must not transfer, sell, give away, or otherwise convey any asset, without the advance approval of the supervising officer.
- 3. You must surrender or make available for review, any documents and/or business records, requested by the supervising officer.
- 4. You must not incur any new debt, open additional lines of credit, or enter into any financial contracts, without the advance approval of the supervising officer.
- 5. You must submit your person, residence, office, or vehicle and belongings to a search, conducted by a probation officer, at a sensible time and manner, based upon reasonable suspicion of contraband or evidence of violation of a condition of supervision. Failure to submit to search may be grounds for revocation. You must warn persons with whom you share a residence that the premises may be subject to search.

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DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

CASE NUMBER: 4:17CR06046-SMJ-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TO	TALS \$ Assessm \$20	<u>nent</u> 0.00 \$	JVTA Assessment* \$0.00	<u>*</u> - \$	Fine \$0.0	90 \$	Restitution \$8	<u>n</u> 3,675,379.07
	The determination of res		red until	An Am	ended Judgi	ment in a Cr	iminal Case	(AO 245C) will be entered
Ø	The defendant must make a the priority order or percentage.	·						nt listed below. unless specified otherwise if the federal victims must be pair
<u>N</u>	Name of Payee	is paid.			Loss**	Restitution		Priority or Percentage
*	Murex LLC				 5,169,285.07		169,285.07	(1st priority)
	Dept of the Treasury - Int	ternal Revenue S	Service		2,506,094.00		506,094.00	(2nd priority)
TO	TALS	\$ \$8,675	,379.07	\$	\$8,675,379	0.07	_	
	Restitution amount orde	ered pursuant to	plea agreement \$					
	The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).							
\checkmark	The court determined th	nat the defendan	t does not have the a	bility to	pay interest	and it is ordere	ed that:	
	the interest require	ment is waived	for the fine	res	titution.			
	the interest requirer			•	s modified a	s follows:		

^{*} Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

Sheet 6 — Schedule of Payments

DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

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SCHEDULE OF PAYMENTS

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Hav	ing a	ssessed the defendant's ability to pay, paymer	nt of the total crim	inal monetary pena	alties are due as follows:			
A		Lump sum payment of \$	_ due immediatel	ly, balance due				
		not later than in accordance C, D,	, or E, or	☐ F below; or				
В	\checkmark	Payment to begin immediately (may be com	bined with \	C, D, or	F below); or			
C		Payment in equal (e.g., we (e.g., months or years), to com	eekly, monthly, qu mence	arterly) installment (e.g., 30 or 60 or	ts of \$days) after the date of this	over a period of judgment; or		
D		Payment in equal (e.g., we (e.g., months or years), to come term of supervision; or	eekly, monthly, qu mence	arterly) installment (e.g., 30 or 60 c	ts of \$days) after release from in	over a period of mprisonment to a		
E		Payment during the term of supervised releasimprisonment. The court will set the payment	se will commence nt plan based on a	within n assessment of the	(e.g., 30 or 60 days) e defendant's ability to pa	after release from ay at that time; or		
F	\checkmark	Special instructions regarding the payment of	of criminal moneta	ry penalties:				
	Defendant shall participate in the BOP Inmate Financial Responsibility Program. During the time of incarceration, monetary penalties are payable on a quarterly basis of not less than \$25.00 per quarter.							
	defe	ile on supervised release, monetary penalties a endant's net household income or \$2,000.00 w orisonment.						
Unle duri Inma Cou	ess th ng the ate Fi rt, At	ne court has expressly ordered otherwise, if this period of imprisonment. All criminal mone inancial Responsibility Program, are made to ttention: Finance, P.O. Box 1493, Spokane, W.	is judgment impose tary penalties, exc the following addi A 99210-1493.	es imprisonment, p ept those payment ress until monetary	ayment of criminal mone is made through the Fede penalties are paid in full	tary penalties is due ral Bureau of Prisons : Clerk, U.S. District		
The	defei	ndant shall receive credit for all payments pre	viously made towa	ard any criminal m	onetary penalties impose	d.		
\checkmark	Join	nt and Several						
	Defendant and Co-Defendant Names and Case Numbers (<i>including defendant number</i>), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.							
	*	FJin Chul Cha; 4:17-CR-06046-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex LLC			
	*	Donald Holmes; 4:15-CR-6044-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex LLC			
	*	Scott C. Johnson 4:15-CR-6042-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex LLC			
	The	e defendant shall pay the cost of prosecution.						
	The	e defendant shall pay the following court cost(s):					
\checkmark	The	e defendant shall forfeit the defendant's interes	st in the following	property to the Un	ited States:			
	See attached "Additional Forfeited Property."							

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

Sheet 6A — Schedule of Payments

DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha CASE NUMBER: 4:17CR06046-SMJ-1

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ADDITIONAL DEFENDANTS AND CO-DEFENDANTS HELD JOINT AND SEVERAL

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several <u>Amount</u>	Corresponding Payee, <u>If appropriate</u>
*Jin Chul Cha; 4:17-CR-06046-SMJ-01	\$2,506,094.00	\$2,506,094.00	*Department of the Treasury - IRS
*Donald Holmes 4:15-CR-6044-SMJ-01	\$9,517,412.50	\$2,506,094.00	*Department of the Treasury - IRS
*Scott C. Johnson 4:15-CR-6042-SMJ-01	\$9,517,412.50	\$2,506,094.00	*Department of the Treasury - IRS
*Richard Estes 4:15-CR-6048-SMJ-01	\$4,360,724.50	\$2,506,094.00	*Department of the Treasury - IRS
*Nancy Bush Estes 4:15-CR-6047-SMJ-01	\$4,360,724.50	\$2,506,094.00	*Department of the Treasury - IRS
*Thomas Davanzo 2:15-CR-141-UA-	\$4,360,724.50	\$2,506,094.00	*Department of the Treasury - IRS
MRM-01 (FLM)			
*Robert Fedyna 2:15-CR-0141-UA-MRM-2	\$4,360,724.50	\$2,506,094.00	*Department of the Treasury - IRS
(FLM)			

^{*}With respect to the restitution to be paid to

Murex LLC in the reduced amount of

\$6,169,285.07 See Attachment No. 1.

DEFENDANT: JIN CHUL CHA, a/k/a Jacob Cha

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ADDITIONAL FORFEITED PROPERTY

Real Property:

The real property being forfeited is located at 2920 Schwendeman Avenue, in Tustin, California, and is further described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, known as:

Parcel 1:

Lot 78 of Tract no. 15568, in the City of Tustin, County of Orange, State of California, as shown on a map recorded in book 769 pages 25 to 31 inclusive of miscellaneous maps, in the office of the County Recorder of said County. Except therefrom, all oil, oil rights, natural gas rights, mineral rights, and other hydrocarbon substances by whatever name known, together with appurtenant rights thereto, without, however, any right to enter upon the surface of said land nor any portion of the subsurface lying above a depth of 500 feet, as excepted or reserved instruments of record.

Parcel 2:

Non-exclusive easements for access, ingress and egress, use and enjoyment, drainage, encroachment, maintenance and repairs, all as described in the declaration of covenants, conditions and restrictions and reservation of easements for Sedona ("Declaration") recorded January 27, 1999 as Instrument No. 19990058147 as amended by the first amendment to declaration of covenants, conditions and restrictions and reservation of easements for Sedona (first amendment) recorded March 26, 1999 as Instrument No. 19990224883, and in the notice of addition of territory and supplemental declaration of covenants, conditions and restrictions for Sedona Phase 5 ("Notice") recorded August 17, 1999 as Instrument No. 19990599611, all of official records of Orange County, California. APN: 502-491-18

Money Judgment:

A sum of money equal to \$1 million in United States currency, representing proceeds obtained as a result of the wire fraud offense(s).

Attachment No. 1

JOSEPH H. HARRINGTON 1 United States Attorney 2 Eastern District of Washington KARLA GEBEL PERRIN 3 Special Assistant United States Attorney 4 SCOTT T. JONES 5 Assistant United States Attorney Post Office Box 1494 6 Spokane, WA 99210-1494 7 Telephone: (509) 353-2767 THOMAS FRANZINGER 8 Trial Attorney Environmental Crimes Section 9 U.S. Department of Justice 10 11 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 12 13 UNITED STATES OF AMERICA, 14 Plaintiff, 15 Case No: 4:17-cr-6046-SMJ 16 V. United States' Supplemental Calculation of Restitution 17 JIN CHUL CHA (a.k.a. "Jacob Cha"), 18 Defendant. 19 20 Plaintiff, the United States of America, by and through Joseph Harrington, 21 Acting United States Attorney for the Eastern District of Washington, Karla Gebel 22 23 Perrin, Special Assistant United States Attorney for the Eastern District of 24 Washington, Scott T. Jones, Assistant United States Attorney for the Eastern District 25 of Washington, and Thomas Franzinger, Department of Justice Trial Attorney, 26 27 submits the following Supplemental Calculation of Restitution concerning 28 Defendant Jin Chul Cha.

United States' Supplemental Calculation of Restitution - 1

The Government has now obtained consent from victim Murex LLC (Exhibit 1) to accept the restitution calculation proposed by Defendant Cha (Dkt. 53), which lowers the overall claimed restitution amount by \$6644.10. Therefore, the Government does not object to an order of restitution for Count One in the amount of \$6,169,285.07, to be paid joint and severally with *U.S. v. Johnson*, Case No. 4:15-CR-06042-SMJ. The Government's recommendation regarding restitution in the amount \$2,506,094 to the U.S. Treasury for Count Two remains unchanged.

DATED May 8, 2018

JOSEPH H. HARRINGTON United States Attorney

Harly Heled te

Karla Gebel Perrin

Special Assistant United States Attorney

<u>//signed//</u>_____

Scott T. Jones

Assistant United States Attorney

//signed//_____

Thomas Franzinger

Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

//signed//

Thomas Franzinger USDOJ Trial Attorney

From: Jones, Scott (USAWAE)

To: Perrin, Karla (perrin.karla@epa.gov); Franzinger, Thomas (ENRD)

 Subject:
 FW: US v. Cha 17-CR-6046-SMJ

 Date:
 Monday, May 7, 2018 6:15:53 PM

From: Mayther, Amy L. (USAWAE)
Sent: Monday, May 07, 2018 3:07 PM

To: Jones, Scott (USAWAE) <SJones11@usa.doj.gov>

Subject: FW: US v. Cha 17-CR-6046-SMJ

From: Rick Bartel < RBartel@murexltd.com > Sent: Monday, May 07, 2018 2:58 PM

To: Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

Subject: RE: US v. Cha 17-CR-6046-SMJ

Amy,

This is a minor amount. In the interest of moving things along we will accept it without wasting everyone's time.

Regards,

Rick Bartel | Chief Financial Officer

MUREX

7160 North Dallas Parkway, Suite 300

Office: 972-735-3308 www.murexltd.com

Plano, TX 75024

Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com

From: Mayther, Amy L. (USAWAE) [mailto:Amy.Mayther@usdoj.gov]

Sent: Monday, May 07, 2018 4:53 PM **To:** Rick Bartel <<u>RBartel@murexltd.com</u>>

Cc: Jones, Scott (USAWAE) < Scott.Jones@usdoj.gov>

Subject: US v. Cha 17-CR-6046-SMJ

Hi Rick,

The defense is objecting to part of your restitution because they allege you applied the wrong average of the prior day's high and low RINs biodiesel price provided by OPIS. They allege this error over-calculates restitution by \$6,644.10.

Attached are their pleading supporting this allegation. Could you please review these documents and provide me with your comments?

Thank you,

Amy Mayther

Victim-Witness Coordinator United States Attorney's Office Eastern District of Washington P.O. Box 1494 920 West Riverside, Suite 340 Spokane, WA 99201 Direct: 509-835-6314

Office: 509-353-2767 Cell: 509-710-7703

From: Rick Bartel < RBartel@murexltd.com > Sent: Thursday, April 26, 2018 10:54 AM

To: Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

Subject: RE: US vine Chula Cha 17-CR-6046-SMJ

Amy,

Thanks.

Regards,

Rick Bartel | Chief Financial Officer

MUREX

7160 North Dallas Parkway, Suite 300

Plano, TX 75024 Office: 972-735-3308 www.murexltd.com

Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com

From: Mayther, Amy L. (USAWAE) [mailto:Amy.Mayther@usdoj.gov]

Sent: Thursday, April 26, 2018 11:45 AM **To:** Rick Bartel < RBartel@murexltd.com >

Subject: RE: US v.Jin Chul Cha 17-CR-6046-SMJ

Hi Rick,

Cha was sentenced on April 20th to imprisonment of 4 years, 3 months, followed by supervised release of 3 years. The defense attorney asked for more time to review the restitution request from Murex, which the court is allowing. The Court will be scheduling another hearing date for that issue.

I will keep you updated.

Thanks,

Amy Mayther

Victim-Witness Coordinator United States Attorney's Office Eastern District of Washington P.O. Box 1494 920 West Riverside, Suite 340 Spokane, WA 99201 Direct: 509-835-6314

Office: 509-353-2767 Cell: 509-710-7703

From: Rick Bartel < RBartel@murexltd.com > Sent: Tuesday, March 13, 2018 8:50 AM

To: Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

Cc: Jennifer LeRow < <u>JLerow@murexltd.com</u>> **Subject:** RE: US v.Jin Chul Cha 17-CR-6046-SMJ

Amy,

Here is the Victim Impact Statement for Defendant Jin Chul Cha.

Please let me know if you need adjustments or changes.

The total amount for all defendants, including defendants Johnson and Holmes, is \$6,175,929.17.

Thanks.

Regards,

Rick Bartel | Chief Financial Officer

MUREX

7160 North Dallas Parkway, Suite 300

Plano, TX 75024 Office: 972-735-3308 www.murexltd.com Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com